IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1691 OF 2005

Ms.Rakha R.Kamla. ... Petitioner

Versus.

Dr.Parotoish A.Kamdar & anr. ... Respondents.

Shri Rajeev Matlar for the Petitioner.

Shri A.P.Mundargi with Shri Ganesh Gole for the Respondent No.1.

Ms.Rajashree Gadhvi, A.P.P. for the State.

CORAM : ABHAY S. OKA, J.

DATED : 25th July, 2005.

P.C.:

1. Heard the learned Counsel for the parties. The Petitioner is the original Complainant and the Respondent No.1 is the original Accused No.3 in a private complaint filed by the Petitioner. The Application for discharge made by the Respondent No.1 was rejected by the learned Magistrate. In Revision filed by the Respondent No.1, the Sessions Court has interfered and has passed an order of discharge under section 245(2) of the Code of Criminal Procedure, 1973, in favour of the Respondent No.1. After having heard the learned Counsel appearing for the parties and after perusing the complaint, I find no error with the view taken by the learned Additional Sessions Judge. On a plain reading of the complaint it is obvious that no case is made out in the complaint as against the

Respondent No.1 of offence punishable under section 454, 457, 380, read with section 34 of the Indian Penal Code and section 19 of the Bombay Rents Hotel and Lodging House Rate (Control) Act, 1949. On a plain reading of the complaint it is apparent that the Respondent No.1 entered the possession of the premises in question after the alleged transaction between the other two accused was completed. Therefore, on a plain reading of the complaint, section 120-B cannot be applied. I find no reason to interfere. The Petition is rejected.

Judge.